IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 648 of 1995

Between:

The Management of the Duroflex Coir Industries Pvt. Ltd., Rep. by its Director, IDA,Nacharam

..... PETITIONER

AND

1 Industrial Tribunal,Hyderabad II Rep.by its Presiding Officer Hyderabad.
2 Workmen of the Duroflex Coir Industries (P) Ltd., Rep.

by the Duroflex Coir Industries Karmika Sangham R/o.H.No.4-3-62,Sultan Bazar Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Certiorari after calling for the records from the 1st respondent and quash the award passed in I.D.No.20/1992 dt.23-3-1994.

Counsel for the Petitioner:MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: G.P. for Labour

Counsel for the Respondent No.2: MR.B.NARASIMHA SARMA(not present)

The Court made the following :

O R D E R:

This Writ Petition is filed challenging the Award passed by the Industrial Tribunal, Hyderabad-II, in I.D.No.20 of 1992, dated 23-03-1994.

2. The workmen of the Duroflex Coir Industries (Private) Limited, Hyderabad raised industrial dispute regarding the service conditions and ultimately the State Government referred the following directions for adjudication.

> *"1. To issue confirmation letters to all the workers who have completed 240 days of service.*
>
> *2. Fixation of monthly wages consisting of basic pay, DA, HRA, CCA and annual grade increments and determination of pay scales.*
>
> *3. To link the DA to the cost of living index and an increase of Rs.165 per point.*
>
> *4. To grant 12 paid holidays, 12 casual leaves to each worker in a calender year.*
>
> *5. To provide 2 pairs of uniforms and one pair of shoes per year to all the workers other than Bioler Workers.*
>
> *6. To provide two pairs of shoes to Boiler Workers per year.*
>
> *7. Payment of festival advance equivalent to one month basic to be deductable in ten monthly instalments.*
>
> *8. To provide subsidised canteen.*
>
> *9. To introduce a monthly attendance allowance scheme.*
>
> *10. To provide soaps to all workers. If so to what relief they are entitled."*

3. The matter was contested by the Management, more especially taking the plea it

has no financial capacity to meet the demands of the Union. Heard the learned counsel and passed an Award dated 23-03-1994 in I.D.No.20 of 1992 allowing all the demands raised by the Union. Against the said Award, the present Writ Petition has been filed.

5. The learned counsel for the Management now submit that even though ten demands were allowed, the management has already implemented demand Nos.4, 5, 6, 9 and 10. With regard to other demands, the learned counsel would submit that financial capacity is one of the issues, which ought to be considered by the Tribunal as they infringed on the finances of the Company. This aspect was not taken into consideration by the Tribunal. Therefore, the Award of the Tribunal suffers from an error apparent on the face of the record.

6. The learned counsel for the respondent not present even on the last occasion also. Therefore, the matter was heard on merits.

7. I have also perused the Award of the Tribunal. I find from the counter filed before the Tribunal that the Management was also pleaded financial incapacity, but in the Award the said issue was not properly dealt with.

8. Under those circumstances, I am of the considered view that the matter requires reconsideration in the hands of the Tribunal once again. Accordingly, the Award in respect of demand Nos.1, 2, 3, 7 and 8 are set aside and the same is remitted back to the Tribunal for fresh consideration. The Tribunal shall issue notice to the parties concerned and passed the Award within a period of four months from the date of receipt of a copy of this order.

9. The Writ Petition is accordingly disposed of.

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G.BIKSHAPATHY, J

Date: 30-09-2004

Prv/bsb

To

1 Industrial Tribunal,Hyderabad II Rep.by its Presiding Officer
Hyderabad.
2 2 CCs. to G.P. for Labour, High Court of A.P.,

Hyderabad (OUT).

3 2CD copies